

CHAPTER NO. 62

HOUSE BILL NO. 2126

By Representative Buck

Substituted for: Senate Bill No. 2043

By Senator Beavers

AN ACT to authorize the regulation of certain abandoned, wrecked, dismantled, junked or inoperative motor vehicles in Macon County, Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Purpose and scope.

The purpose of this act is to provide regulations for abandoned, wrecked, dismantled, junked or inoperative motor vehicles upon private property within Macon County.

SECTION 2. Definitions.

(1) "Abandoned, wrecked, dismantled, junked or inoperative motor vehicle" means any motor vehicle:

(A) In an obvious state of disrepair; and

(B)

(i) Without registration plates; or

(ii) With expired registration plates.

"Abandoned, wrecked, dismantled, junked or inoperative motor vehicle" does not include farm equipment, construction equipment, any motor vehicle enclosed within a building, any motor vehicle held in connection with a business enterprise lawfully licensed by the county and properly operated in the appropriate business zone pursuant to zoning laws of the county, any operable motor vehicle specifically adapted or designed for operation on a drag strip or raceway, or any motor vehicle retained by the owner for antique collection purposes.

(2) "County" means Macon County, Tennessee.

(3) "Motor vehicle" means any vehicle which is self-propelled and designed to be used on roads, streets or highways.

(4) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

(5) "Private property" means any real property within the county which is privately owned and which is not public property.

SECTION 3. Storing, parking, or leaving abandoned, wrecked, dismantled, junked or inoperative motor vehicle prohibited and declared nuisance.

No person shall park, store, leave or permit the parking storing or leaving of any abandoned, wrecked, dismantled, junked or inoperative motor vehicle, or any parts thereof, whether attended or not attended on private property within the county for a period of time in excess of seventy-two (72) hours. The presence of any such motor vehicle, or any parts thereof, on private property in excess of such period of time is hereby declared a public nuisance that may be abated in accordance with the provisions of this act.

SECTION 4. Notice to remove.

Whenever it comes to the attention of the county that any nuisance as defined in Section 3 of this act exists in Macon County, a notice in writing shall be served upon the owner of the property or his agent notifying such owner of the existence of the nuisance and requesting such abandoned, wrecked, dismantled, junked or inoperative motor vehicle's removal in the time specified in this act.

SECTION 5. Responsibility for removal.

Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled, junked or inoperative motor vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for such vehicle's removal within seven (7) days of citing such nuisance by notice. In the event of the removal and disposition by the county, the owner or occupant of the private property where such motor vehicle is located shall be liable for the expenses incurred.

SECTION 6. Notice procedure.

The codes enforcement officer of the county shall give notice of removal to the owner or occupant of the private property where such abandoned, wrecked, dismantled, junked or inoperative motor vehicle is located at least seven (7) days prior to removal and disposition by the county. It shall constitute sufficient notice when a copy of such notice is posted in a conspicuous place upon the private property on which such motor vehicle is located and a duplicate copy is sent by registered mail to the owner or occupant of the private property at such person's last known address.

SECTION 7. Content of notice.

The notice shall contain the request for removal, within the time specified in this act, and shall advise that upon failure to comply with the request for removal that the county, or its designee, shall undertake such removal with the cost of removal to be levied against the owner of the property upon which the abandoned, wrecked, dismantled, junked or inoperative motor vehicle is located

SECTION 8. Request for hearing.

The person to whom the notice is directed, or their duly authorized agents, may file a written request for a hearing with the county within the seven (7) day compliance period pursuant to the provisions of this act.

SECTION 9. Procedure for hearing.

The hearing shall be held as soon as practicable after the filing of the request and the person to whom the notice is directed shall be advised of the time and place of such hearing at least five (5) days prior to the hearing date. At

the hearing, the county and the person to whom the notice has been directed may introduce such witnesses and evidence as either party deems necessary.

SECTION 10. Removal of motor vehicle from property.

If the violation described in the notice has not been remedied within the seven (7) day period of compliance or has been affirmed at a hearing held in accordance with the provisions of this act, the sheriff's department, or the sheriff's designee, shall have the right to take possession of the abandoned, wrecked, dismantled, junked or inoperative motor vehicle, or parts thereof, and remove such motor vehicle from the premises. No person shall interfere with, hinder, or refuse to allow any person entrance upon private property for the purposes of removing a motor vehicle, or any parts thereof, pursuant to the provisions of this act.

SECTION 11. Notice of removal.

Within forty-eight (48) hours of the removal of such motor vehicle, the sheriff's department shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the motor vehicle was removed. Such notice shall state that the motor vehicle has been removed, impounded and stored in accordance with the provisions of this act for a violation of this act. Such notice shall give the location of the motor vehicle and the cost incurred by the county for such motor vehicle's removal.

SECTION 12. Disposition of vehicles.

Upon removal a motor vehicle pursuant to the provisions of this act, the county shall, after ten (10) days, cause such motor vehicle to be appraised. If the motor vehicle is appraised at seventy-five dollars (\$75.00) or less, the sheriff's department shall execute an affidavit so attesting and describing the motor vehicle, including the license plates, if any, and stating the location and appraised value of the vehicle. The sheriff's department, after complying with the above, may summarily dispose of the vehicle and execute a certificate of sale. If the vehicle is appraised at over seventy-five dollars (\$75.00), the sheriff's department shall give notice of public sale not less than twenty (20) days before the date of the proposed sale.

SECTION 13. Contents of public sale notice.

The notice of sale shall state:

- (a) The sale is of abandoned property in the possession of the county;
- (b) A description of the motor vehicle including the make, model, license number, if any, and any other information which will accurately identify the motor vehicle;
- (c) The terms of the sale; and
- (d) The date, time and place of the sale.

SECTION 14. Public sale.

The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the sheriff's department shall execute a certificate of sale in duplicate, the original of which to be given to the purchaser, and the copy thereof to be filed with the county executive's office. In the event that such sale shall be for any reason invalid, the county's liability shall be limited to the return of the purchase price.

SECTION 15. Liability of owner or occupant.

Upon the failure of the owner or occupant of the property upon which abandoned, wrecked, dismantled, junked or inoperative motor vehicles have been removed by the county to pay the unrecovered expenses incurred by the county in such removal, a lien shall be placed upon the property of the owner or occupant for the amount of such expenses.

SECTION 16. Civil penalty.

Each violation of this act is punishable by a civil penalty not to exceed fifty dollars (\$50.00). Each day of continued violation constitutes a separate violation. Such penalty shall be assessed by the general sessions court of Macon County and as otherwise provided by law.

SECTION 17. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Macon County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body of Macon County and certified to the secretary of state.

SECTION 18. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 17.

PASSED: May 29, 2003


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 23rd day of June 2003


PHIL BREDEBEN, GOVERNOR